
Request to be heard?: Yes

Precinct: Wirraway

Full Name: Rhodie Anderson

Organisation: One Smart Pty Ltd

Affected property:

Attachment 1: Letter_to_Fisher

Attachment 2:

Attachment 3:

Comments: Refer to uploaded letter

Our ref: **REA:20172817**
Your ref:

Direct dial: 03 9321 7832
Direct email: randerson@rigbycooke.com.au
Page: 1/6

15 December 2017

Fishermans Bend Task Force
Department of Environment, Land, Water and Planning
8 Nicholson St,
EAST MELBOURNE VIC 3002

Dear Sir/Madam

**19 Salmon Street, Port Melbourne
Amendment GC81**

Subject Site

- 1 Diamond Salmon Pty Ltd is the owner of the land at S2/19 Salmon Street, Port Melbourne.
- 2 The location of the site is shown in Figure 1 below.
- 3 The site has frontages to Salmon Street and Plummer Street.
- 4 The site is located in the Wirraway Precinct within Fishermans Bend.

Figure 1 - Aerial Photograph



Our ref: REA:20172817
Your ref:

Letter to: The Hon. Richard Wynne MP
Page: 2/6

Current Planning Scheme Provisions

- 5 The land is affected by the Port Phillip Planning Scheme.
- 6 Under the current controls applicable to the site there is;
- A mandatory maximum building height of 18 storeys;
 - A mandatory maximum street wall height of 20m or 5 storeys (whichever is the lesser);
 - Mandatory tower setbacks above the building podium of 10m to streets and side/ rear boundaries;
 - Preferred parking rates of 1 space per dwelling and 1 space per 100 square metres of retail/ commercial floor space; and
 - A requirement to negotiate development contributions.
- 7 In addition to the provisions noted above, the existing local policy at Clause 22.15 includes provisions associated with encouraging new development to incorporate:
- 30% of dwellings as 3 bedrooms units;
 - 6% of dwellings as affordable housing to be transferred to a registered housing provider; and
 - Non-residential floor space to occupy 60% of the Salmon Street and Plummer Street frontages.

Proposed Provisions

- 8 Among other matters, the following provisions are proposed by Amendment GC81.
- The inclusion of the site in a 'Core activity area' within the Wirraway Precinct;
 - Nomination of the site as an 'Education and community hub investigation area (primary school)', a 'Health and wellbeing hub' and an 'Arts and cultural hub investigation area';
 - The introduction of a mandatory Floor Area Ratio of 4.1:1 (with a discretionary requirement that commercial floor space represents a FAR of 1.9:1), unless any additional floor area is associated with a non-residential use or a public benefit floor area uplift is agreed to by the Responsible Authority;
 - The introduction of a discretionary 24 storey building height;

Our ref: REA:20172817
Your ref:

Letter to: The Hon. Richard Wynne MP
Page: 3/6

- The introduction of new building setback provisions, including a mix of mandatory and discretionary provisions;
 - Nomination of the Plummer Street and Salmon Street frontages as 'Primary active frontages', and no crossovers are permitted either to Plummer Street or Salmon Street;
 - A potential metro alignment is depicted along Plummer Street;
 - A new public open space on the site's east boundary and a provision that states that a permit must not be granted if inter-alia the proposed public open space is not provided;
 - Mandatory overshadowing controls that prohibit additional shadow to be casted over the south side of Plummer Street between 11:00am and 2:00pm on 22 September;
 - A 4 star Green Star (or equivalent) sustainability rating;
 - Qualitative provisions related to wind effects on the public realm;
 - Minimum floor to floor height provisions associated with the future adaptability of buildings;
 - Qualitative provisions related to active street frontages; and
 - Mandatory parking rates of 0.5 spaces per dwelling and 1 space per 100 square metres of retail/ commercial floor space, unless an alternative parking plan that responds to certain criteria is approved.
- 9 Similar to the existing statutory planning framework, there are also a range of qualitative provisions related to a range of other planning and urban design considerations.

Submissions

- 10 We oppose the Fishermans Bend Framework and Amendment GC81 to the Port Phillip Planning Scheme.
- 11 Our submissions can be grouped into 4 categories:
- Floor Area Ratios and Floor Area Uplift;
 - Salmon Street Public Open Space;
 - Overshadowing Provisions; and
 - Drafting issues.

Our ref: REA:20172817
Your ref:

Letter to: The Hon. Richard Wynne MP
Page: 4/6

- 12 As noted above, the Planning Scheme provisions that are proposed to be applied to the subject site are extensive, and in our submission they are overly complex, unreasonable and unjustified, and a summary of our concerns is discussed further below.

Floor Area Ratios

- 13 Regarding the concept of floor area ratios, it is acknowledged within the Urban Design Strategy background report that this concept has been frequently adopted into the urban planning system in many cities. However, it is our submission that the proposed FARs is flawed for two reasons.
- 14 Firstly, with regard to its close proximity to the proposed tram route and train station, the increase in building height from 18 storeys (mandatory) to 24 storeys (discretionary) is considered to be reasonable. However, the proposed FARs' control over the entire Fishermans Bend renewal area is considered inadequate.
- 15 According to the ABS census data released on 27 September 2017, Victoria has an annual population growth of 149,400, which contradicts the estimation of the new Draft Framework.
- 16 As one of the major urban renewal areas in Victoria, Fishermans Bend has the ability and responsibility to accommodate a majority of increase in population growth; the estimated 80,000 benchmark target as set out in the new Draft Framework is significantly too low.
- 17 There is a clear need for the Planning Authority to re-examine the suitability and accuracy of the proposed FARs.
- 18 Secondly, as drafted, a key planning direction is to create certainty for the community, landowners, developers, businesses and investors within Fishermans Bend. However, the overlapping planning controls, including building height requirements and FARs requirements, are enormously confusing, leading to a certain degree of legal uncertainty.

Floor Area Uplift

- 19 Regarding the concept of Floor Area Uplift, it is of note that the Panel Report associated with Amendment C270 to the Melbourne Planning Scheme observed that:
- The floor area uplift scheme failed to clearly apply the principles of equality, consistency, accountability and transparency to the securing of benefits; and its implementation, including the Guidelines, is vague and may be open to misinterpretation;
 - The strategic justification for the scope of public benefits is absent; and

Our ref: REA:20172817
Your ref:

Letter to: The Hon. Richard Wynne MP
Page: 5/6

- There are too many opportunities for inconsistent outcomes in the “negotiation” of agreements for public benefits.

20 It is our submission that the floor area uplift scheme as proposed as part of this Amendment is also problematic for similar reasons. Therefore the provisions should not be included in the new draft Framework and Amendment GC81.

Salmon Street Public Open Space

21 Being the type of public open space which could be used to improve the connectivity between streets and open space reserves, the linear connection has the ability to deliver passive and active recreational amenities. The intent to nominate the linear public open space on the site’s east boundary is acknowledged by the applicant, and would undoubtedly provide some merit to the surrounding area.

22 It is our submission, however, that the location designated along the Salmon Street frontage is unlikely to achieve the vision being set out in the new Draft Framework. It can be easily identified that all of the public open spaces classified as having linear connection within Fishermans Bend are closely interconnected with each other, providing a high level of connectivity and recreational amenity.

23 The role and purpose of the linear open space on the subject site located along the Salmon Street frontage is therefore considered to be unreasonable and unjustified.

24 Further, clause 4.0 of the Capital City Zone Schedule 1 provides that any land required for public open space, must be provided before a permit can be granted. This requirement is an unlawful acquisition of land.

Overshadowing Provisions

25 It is our submission that having the south side of Plummer Street protected from overshadowing to the north of the subject site—capable of supporting a maximum mandatory building height of 24 storeys—is an ill-conceived concept. It is our submission that the proposed overshadowing provisions are flawed.

26 Firstly, it is unclear why the shadow controls have been drafted as mandatory requirements in the proposed planning control whilst background reports promote discretion. In this regard, the preferred building typology for the Wirraway Precinct, as stated in the Urban Design Strategy background report, is:

The primary focus of Wirraway is to support family friendly housing. The residential density targets here are lower than the other three precincts. Within the new activity core taller buildings are supported to define this centre, however these should ensure that the southern side of Plummer Street is not overshadowed. Generally 6 storey height limit in the non-core areas is proposed, reducing to 4 storeys at the interface to low-scale neighbourhoods to the south.

27 The suggestion of discretionary overshadowing controls as drafted in the background report has been translated as mandatory in the proposed Schedule 30 to the Design and Development Overlay.

RIGBY COOKE LAWYERS

Our ref: REA:20172817
Your ref:

Letter to: The Hon. Richard Wynne MP
Page: 6/6

- 28 Secondly, after reviewing the new Draft Framework, the only strategy relating to overshadowing is simply associated with public open spaces, and the specific provision is provided below:

Establish new overshadowing controls to protect precinct and district parks between 11am and 2pm from 21 June to 22 September and all other parks between 11am and 2pm on 22 September.

- 29 It is our submission that if there is such a need to compromise, a more innovative urban development prohibiting the overshadowing of a street would be encouraged, with active street frontage provided at the street level.
- 30 The overshadowing requirement over the south side of Plummer Street is therefore considered to be unacceptable.

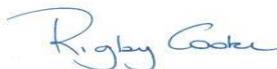
Drafting Issues

- 31 A detailed review of the draft Planning Scheme provisions reveals a number of errors in the documentation.
- 32 These errors include the following:
- Use of wrong 'Table' numbers;
 - Errors in the land use tables;
 - Confusing mandatory and discretionary building form requirements; and
 - Confusing mandatory and discretionary overshadowing requirements.
- 33 For such an important inner urban renewal project, it is unacceptable that the documentation is strewn with errors.
- 34 It is also suggested that the draft new provisions are far too complex, and a far simpler template for the different layers of controls should be investigated.

Conclusion

- 35 In summary, Diamond Salmon Pty Ltd opposes the draft Fishermans Bend Framework and Amendment GC81 to the Port Phillip Planning Scheme as proposed, and we intend to make detailed submissions at the Advisory Committee Hearing.

Yours faithfully



Rhodie Anderson
Partner

RIGBY COOKE LAWYERS

Level 11, 360 Elizabeth Street
Melbourne Victoria 3000

GPO Box 4767
Melbourne Victoria 3001

T +61 3 9321 7888
F +61 3 9321 7900

www.rigbycooke.com.au

ABN 58 552 536 547
DX 191 Melbourne

Our ref: **REA:20170712**
Your ref:

Direct dial: 03 9321 7832
Direct email: randerson@rigbycooke.com.au
Page: 1/1

28 March 2018

Andrea Harwood
Planning Panels Victoria
Level 5, 1 Spring Street
MELBOURNE VIC 3001

By email andrea.harwood@delwp.vic.gov.au

Dear Andrea

19 Salmon Street, Port Melbourne

We act on behalf of Diamond Salmon Pty Ltd (submitter no. 167) and Prime Port Melbourne Pty Ltd, the owners of the land at 19 Salmon Street, Port Melbourne (**Land**), comprising S2 and S3 on PS728869T (respectively).

We note that our submission of 15 December 2017 refers to S2/19 Salmon Street, Port Melbourne. We respectfully request the consent of the Review Panel to expand this submission to include S3/19 Salmon Street, Port Melbourne.

Submissions regarding S3/19 Salmon Street will be made on behalf Prime Port Melbourne Pty Ltd.

We propose to call evidence from David Barnes (Planning), which will consider S3/19 Salmon Street, Port Melbourne.

Should Planning Panels Victoria require any further information regarding this request, please contact Rhodie Anderson on 9321 7832.

Yours faithfully



Rhodie Anderson
Partner